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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,940	04/01/2004	Amit Bande	ORCL-002/OID-2003-258-01	2939

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LAW FIRM OF NAREN THAPPETA
C/O LONDON IP, INC.
1700 DIAGONAL ROAD, SUITE 450
ALEXANDRIA, VA 22314

EXAMINER

DWIVEDI, MAHESH H

ART UNIT	PAPER NUMBER
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2168

MAIL DATE	DELIVERY MODE
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02/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/708,940

Applicant(s)

BANDE ET AL.

Examiner

Mahesh H. Dwivedi

Art Unit

2168

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1,3-11,13-21 and 23-29.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


TIM VO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Mahesh Dwivedi
Patent Examiner, AU 2168
1/29/2007

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' request for reconsideration filed on 01/24/2007 has been considered, but is not persuasive. Applicant argues on page 8 that "Thus, for proper anticipating under 35 U.S.C. 102(e), Ernst would require to teach the determining of processing load on both server (105 of Figure 1, 205 in Figure 2, or 305 in Figure 3 of Ernst) and client (120 of Figure 1, 22 in Figure 2, or 320 in Figure 3 of Ernst). Ernst does not disclose determining of processing load on client 120/220/320". However, the examiner wishes to point applicant to page 21 of the final office action mailed on 11/28/2006 to address this issue. Moreover, the examiner wishes to state that "routine 315 may determine the approximate data transfer rate between browser 325 and web server 210 during set up operations. In addition, routine 315 may ascertain if browser 325 supports decompression utilities" (Paragraph 21) teaches the aforementioned limitation. The examiner further wishes to state that by determining the transfer rate between the client (browser) and server (web server), Ernst's method clearly teaches "determining a processing load on each of first end system and said second end system". Applicant then goes on to argue on page 9 that "Ernst does not anticipate claim 1 in not teaching the claimed feature of, "determines not to send said data in said compressed format if the processing load on either end system is determined to be more than a first threshold". However, the examiner wishes to state that Ernst's method teaches that if a threshold violation occurs in the server, than compressed data is not sent. The examiner further wishes to state that Ernst's method teaches the limitation "determines not to send said data in said compressed format if the processing load on either end system is determined to be more than a first threshold" since the limitation only requires one of the two end systems to be above a threshold. Since Ernst's method has a server above a threshold, thus, Ernst's method teaches the aforementioned limitation. Applicants' then go on to argue on page 11 that "Applicants do not find references to the claimed time stamps in the text above for proper anticipation under 35 U.S.C. 102 (e). However, the examiner wishes to point to Paragraph 25 of Ernst, which states "Next, the time needed to transmit the compressed data object based on the transmission rate calculated in accordance with block 400 of FIG. 4 and recorded in connection database 700 is determined (block 905). A similar calculation is performed to determine the time needed to transmit the uncompressed data object (block 910)" (Paragraph 25). The examiner further wishes to state that Ernst's method clearly determines the potential time for compression and data transmission. The examiner further wishes to state that one can broadly interpret "time stamps" as measuring the time for potential computer operations.